

C O N T R A C T O F E M P L O Y M E N T
HEAD BASEBALL COACH
DEPARTMENT OF INTERCOLLEGIATE ATHLETICS
UNIVERSITY OF NEBRASKA-LINCOLN

THIS CONTRACT is made by and between **THE BOARD OF REGENTS OF THE UNIVERSITY OF NEBRASKA**, a public body corporate ("University"), for and on behalf of the Department of Intercollegiate Athletics of the University of Nebraska-Lincoln ("Athletics"), and **Darin Erstad** ("Coach").

WITNESSETH: That the University hereby agrees to employ Coach and Coach hereby agrees to accept employment as Athletics' Head Baseball Coach, subject to the following terms:

Section 1. Term of Contract. The term of this Contract shall be for a period beginning on the 1st day of July, 2012, and expiring at midnight on the 30th day of June, 2016, unless earlier terminated, as provided for in the Contract (the "Term"). Except as otherwise specifically and explicitly provided herein, upon expiration of the Term, all compensation, perquisites, benefits and other privileges provided to Coach under this Contract shall cease to the full extent permitted by law.

Section 2. Duties.

(a) Coach shall perform duties as Head Baseball Coach and shall be responsible to the Director of Intercollegiate Athletics for the direct supervision and administration of Athletics' Baseball Program (the "Program").

(b) In addition to other requirements and conditions of this Contract, Coach agrees:

- (1) To faithfully and conscientiously perform the duties of Head Baseball Coach and to maintain the high moral and ethical standards commonly expected as a Head Coach at the University;
- (2) To devote full-time attention and energy to head coaching duties as required herein and to the promotion of the Program;
- (3) To avoid any business or professional activities or pursuits that may conflict with the performance of Coach's Program duties under this Contract; and
- (4) To perform such other duties as shall from time-to-time be assigned to Coach by the Director of Intercollegiate Athletics or such other University authorized officials for the benefit of the University, Athletics, and their respective missions and programs, including but not limited to, appearances on radio programming and Coaches television shows produced by the radio and coaches' television rightsholder. (Athletics' Policy on Appearances in Coaches' Television Shows is

attached to this Contract as Appendix "A" and is incorporated herein by this reference.)

(c) Coach agrees that academic progress and achievement of student-athletes is of the highest importance. Coach agrees to adhere to the University's standards and policies for the academic performance of its student-athletes in the recruitment, supervision and coaching of players. Coach agrees to follow conscientiously any directives from the Director of Intercollegiate Athletics or other duly authorized administrative officers of the University concerning such matters.

(d) Coach shall not have authority to engage in dealings with any athletic booster or booster organization of the University, except as may be expressly authorized by the Director of Intercollegiate Athletics.

Section 3. Annual Salary and Compensation. In consideration of an annual salary of \$163,200, and the further agreements and considerations hereinafter stated, Coach agrees to perform the duties set forth herein. The annual salary stated above may from time to time, at the discretion of the University, be adjusted upward without the necessity of a written amendment to this Contract. Such annual salary shall be paid in twelve equal monthly installments in accordance with the policies of the University governing payment of salary to members of the all-year professional staff.

Section 4. Exceptional Performance Bonuses. In addition to the annual salary to be paid to Coach as provided in this Contract, the University will pay to Coach an exceptional performance bonus should the Program reach certain levels of achievement. The amount of and circumstances, including date of payment, surrounding the exceptional performance bonuses are described in Appendix "B," attached hereto and incorporated herein by this reference.

Section 5. Professional Staff Appointment Status, Fringe Benefits, and Terms, Conditions, Rights and Responsibilities of Employment. The professional staff appointment status of Coach pursuant to this Contract shall be an all-year special appointment as a member of the academic-administrative staff of the University. Coach shall be entitled to receive all of the fringe benefits of employment received by other members of the academic-administrative staff, and such other fringe benefits of employment as may be provided upon approval by the Director of Intercollegiate Athletics. Except as may be inconsistent with this Contract, the employment of Coach pursuant to this Contract is subject to the terms and conditions of employment for members of the academic-administrative staff as provided in Chapter III of the *Bylaws of the Board of Regents of the University of Nebraska* (the "Bylaws"), and is subject to the rights and responsibilities of the professional staff as provided in Chapter IV of the *Bylaws*. Said provisions of the *Bylaws* are incorporated into this Contract by reference and may be accessed on the Internet at <http://www.nebraska.edu>.

Section 6. Supplemental Benefits and Compensation. In addition to the salary stated in Section 3 and the standard University fringe benefits of employment provided in Section 5 of this Contract, the Director of Intercollegiate Athletics has approved and Coach will annually

receive the following supplemental benefits and compensation associated with Coach's University employment for so long as Coach is employed as Athletics' Head Baseball Coach:¹

(a) Coach will be provided with: (1) an automobile for the personal use of Coach; or (2) cash payments in amounts reasonably determined adequate by the University to provide Coach with an automobile. Coach will be personally responsible for the cost of insurance and other related costs associated with this motor vehicle.

(b) Coach will be provided with a membership in a country club in or around Lincoln, Nebraska. Initiation fees and dues for this country club membership will be paid from sources outside of the University that support the University's intercollegiate athletics program.

In the event Coach for any reason ceases to serve as Head Baseball Coach, any and all obligations of the University under this Section 6 shall cease as of the date that Coach ceases to serve as Head Baseball Coach.

Section 7. Employment of Assistant Coaches. Coach shall have authority, consistent with University personnel policies and procedures and National Collegiate Athletic Association (NCAA) regulations, and subject to approval by the Director of Intercollegiate Athletics, to hire and discharge assistant coaches and any other employees under Coach's direct supervision. It is understood that assistant coaches will be immediately responsible to Coach, and that Coach in turn is responsible for the activities of Coach's staff as they relate to the athletic interests of the University.

Section 8. Outside Athletically Related Activity; Annual Report of Athletically Related Income; Schools and Camps; Endorsements.

(a) Prior to agreeing to engagement in any activity outside of the University in consideration for which Coach will receive any form of remuneration as a consequence of Coach's position as Head Baseball Coach, Coach shall first obtain approval of such outside activity from the Director of Intercollegiate Athletics and the Chancellor. Whereas, the University has entered into a multi-media rights agreement, pursuant to which the University has assigned certain rights with respect to Athletics sponsorships, Coaches' radio and television shows, and other rights related to the promotion and marketing of Athletics, Coach agrees that Coach does not have the authority to engage, nor shall Coach engage, in any activity, which is inconsistent with the terms and provisions of such multi-media agreement or its renewal or extension, or any similar subsequent grant of Athletics' multi-media rights. In as much as Coach

¹ The benefits and supplemental compensation provided in Section 6 and the exceptional performance bonuses provided in Section 4 are part of Coach's compensation package and will be reported to the Internal Revenue Service on Form W-2.

The value of personal use of any employer provided automobile will be taxable income to Coach. Coach will be required to keep records of Coach's personal and business use of any employer provided automobile for the purpose of determining the value of the personal use, which will be reported to the Internal Revenue Service as income on Form W-2.

With respect to club memberships, initiation fees are not taxed to Coach, since the "beneficial" ownership of the club membership belongs to the University, as that term is defined by the Internal Revenue Service. Annual or periodic club dues paid on behalf of the employee are, however, fully taxed as compensation.

has secured the approval of the Director of Intercollegiate Athletics to engage in an activity, it shall be presumed that the activity is consistent with the multi-media rights agreement.

(b) In accordance with University/Athletics policies and practices, and with NCAA regulations, Coach agrees that annually, no later than a date to be reasonably determined by the Director of Intercollegiate Athletics or his designee, Coach will file a personal financial statement with the Director of Intercollegiate Athletics which discloses all of Coach's athletically related and other earned income from sources both within and outside of the University, in a format to be determined annually by Athletics. Coach shall be authorized in accordance with schedules to be approved by Athletics to organize and conduct athletic schools, camps and clinics which utilize University buildings, facilities, equipment, materials and services; provided, that any such school or camp conducted by Coach shall comply with all University administrative requirements relating to athletic schools and camps and shall pay to the University such charges and fees as shall be from time to time established by the University for such use of University buildings, facilities, equipment, materials and services. The authorization granted above in this section to organize and conduct schools and camps is given pursuant to Section 3.4.5 of the *Bylaws*. Such authorization shall extend to each assistant coach under Coach's supervision and shall continue and be effective throughout the Term.

(c) Endorsements and similar affiliations by Coach with any business, product, service, or event, whether such endorsements and affiliations are for commercial or charitable purposes, are specifically subject to this section, and require the approval of the Director of Intercollegiate Athletics and the Chancellor.

Section 9. Compliance with NCAA, Conference and University Regulations.

(a) Coach agrees to perform Coach's duties in strict compliance with (1) the constitution and bylaws and the rules and regulations of the NCAA, (2) rules and regulations of the Big Ten Conference (or any successor thereto), and (3) applicable rules and regulations of the University.

(b) While the duties of assistant coaches shall be assigned by Coach, it is understood that Coach and the assistant coaches are directly responsible, separately and collectively, to the Director of Intercollegiate Athletics for compliance with the policies of the University, the rules and regulations of the Big Ten Conference (or any successor thereto), and the constitution and bylaws (and official interpretations thereof) of the NCAA, as are all other employees of Athletics.

(c) In accordance with NCAA legislation, Coach understands that if Coach is found to be in violation of any NCAA rule or regulation, Coach shall be subject to disciplinary or corrective action by the University. Coach further understands that, subject to the University's obligation to comply with both federal and state constitutional requirements for due process of law, Coach's employment may be suspended without pay for a period of time or terminated as provided in Section 13 of this Contract, if Coach is found to have been involved in any deliberate and serious violation of rules and regulations of the NCAA, the Big Ten Conference (or any successor thereto), or the University.

Section 10. Discussion of Other Prospective Employment; Resignation.

(a) Unless notice of termination of employment has been given to Coach in accordance with Sections 13 or 14 of this Contract, Coach shall not engage in discussions or negotiate, directly or indirectly, concerning Coach's prospective employment by any other employer without first notifying the Director of Intercollegiate Athletics of such discussions or negotiations.

(b) Except as more specifically described in this subsection (b), there shall be no penalty to Coach for resignation from employment pursuant to this Contract; provided, that any resignation during the regular Program season or prior to any post-season competition shall only be effective upon written acceptance by the Director of Intercollegiate Athletics.

Section 11. University Documents, Records and Property. All documents, files, records, materials (in any format, including electronically stored information), equipment or other property, including without limitation, personnel records, recruiting records, team information, athletic equipment, films, statistics, keys, credit cards, laptop computers, software programs, electronic communication devices, and any other material, data or property, furnished to Coach by the University or developed or acquired by Coach on behalf of the University or at the expense of the University or using University resources or otherwise in connection with Coach's employment by the University are and shall remain the sole property of the University. Within ten (10) days of termination or separation of Coach's University employment, for any reason, Coach shall cause any such materials in Coach's possession or control to be delivered to the University. The foregoing provisions of this section shall not apply to personal notes, personal playbooks, memorabilia, diaries and similar personal records of Coach, which Coach is entitled to retain.

Section 12. Evaluation of Coach's Performance; Extension or Renewal of Contract. The Director of Intercollegiate Athletics or his designee shall meet with Coach annually for the purpose of evaluating Coach's performance of duties and responsibilities pursuant to this Contract. Based upon such performance evaluation(s), the Director may at his discretion, and with the approval of the Chancellor, offer to Coach an extension or renewal of this Contract. Any such extension or renewal of this Contract shall be reduced to writing and duly executed by the University and Coach.

Section 13. Termination of Employment for Cause, Program Discontinuance or Financial Exigency.

(a) Coach's employment may be suspended or terminated for cause in accordance with the policy and procedures of the Department of Intercollegiate Athletics approved by the Chancellor pursuant to Section 4.7.1 of the *Bylaws*. A copy of said departmental policy and procedures is attached as Appendix "C" to this Contract, incorporated herein by this reference.

(b) Coach's employment may be terminated for cause due to bona fide discontinuance of a program or department or due to extraordinary circumstances because of financial

exigencies, as provided by Sections 4.7.1, 4.16 and 4.17 of the *Bylaws* and policies of the Board of Regents for implementation of said sections of the *Bylaws*.

Section 14. Termination of Employment for Reasons Other than for Cause; Liquidated Damages; Mitigation of Damages.

(a) The position of Head Baseball Coach is unique and requires special talents and skills. As such, it is the only position for which Coach is being employed, and the University shall not have the right to re-assign Coach to any other position. The parties agree that the University shall, at any time, have the right to terminate Coach's employment hereunder for reasons other than for cause upon giving Coach reasonable written or verbal notice of termination, as such reasonableness may be determined by the University in its discretion and exercise of good faith. Notwithstanding any Contract provision which might be interpreted to the contrary or unless otherwise specifically agreed to in writing, Coach's employment relationship with the University as Head Baseball Coach shall terminate upon delivery of the notice of termination or as otherwise set forth in the notice of termination. In the event of such termination, the parties further agree that the damages incurred by Coach would be uncertain and not susceptible to exact computation. Accordingly, it is understood and agreed that any and all claims which may arise in Coach's favor against the University and its Board members, administrators, employees, and agents by reason of such termination shall be strictly and solely limited to an amount of liquidated damages to be determined by multiplying the number of full months remaining in the Term immediately prior to the termination (the "LD Term") by the amount of \$8333.33. Except as otherwise set forth in this section below with respect to mitigation, the liquidated damages shall be paid in equal monthly installments over the course of the LD Term. In case of Coach's death, the University's obligations under this section 14 shall cease effective on the last day of the month in which Coach dies. The obligations of the University under this subsection shall survive termination of this Contract.

(b) Coach hereby acknowledges and agrees to accept the duty to mitigate the liquidated damages described in this section, as well as any other damages Coach may sustain upon termination of this Contract, whether such termination be one for cause or without cause. More specifically, within a reasonably brief period following termination, Coach shall use his best efforts to seek and secure substantially comparable employment including the customary and reasonable terms and conditions of compensation at the new employment, without structuring or timing the new compensation package to avoid mitigation. If Coach obtains other employment during the LD Term and such employment does not guarantee Coach monthly gross cash compensation of more than \$8333.33, then all University obligations to Coach for payments under this section 14 shall cease upon payment of a lump sum to Coach from the University, or other party designated by the University, computed as follows: the present value of a stream of payments over the remaining LD Term in an amount equal to the difference between \$8333.33 and Coach's monthly gross cash compensation at the new employment, discounted at the 3-year Treasury Constant Maturity Rate. [For purposes of illustration, assume Coach secures employment following a termination without cause. Upon commencement of his new employment, fifteen months remain in the LD Term. Coach's new employment guarantees that he receives monthly gross cash compensation of \$8000. The University's obligations under this

section would be fulfilled upon payment to Coach of a lump sum equal to the present value of a stream of fifteen monthly payments of \$333.33, discounted at the rate stated above.]

(c) The parties have bargained for and agreed to the forgoing liquidated damages provisions, giving consideration to the fact that Coach will lose certain benefits, supplemental compensation or outside compensation related to employment as Head Baseball Coach, which damages are extremely difficult to determine with certainty. The parties agree that payment to Coach of the liquidated damages provided in subsections (a) and/or (b) of this section shall constitute adequate and reasonable compensation to Coach for the damages and injury suffered by Coach as a result of the termination of this Contract by the University. Upon payment of such liquidated damages to Coach, Coach does hereby waive and release the University, its Board members, administrators, employees, and agents from any and all claims of any nature whatsoever which may arise by reason of such termination, including but not limited to any benefits of employment or other income which may accrue to Coach by reason of Coach's position as Head Baseball Coach.

(d) Should the University, based upon advice of legal counsel or for any other reason the University in its discretion deems is appropriate, determine that the payments provided for in this section are to be paid from resources other than resources of the State of Nebraska, then the University promises that it will secure funds from non-public fund sources for the satisfaction of the obligation described in this section.

Section 15. Incapacitation. Should Coach become incapacitated so as to be unable to perform the duties pursuant to this Contract, and such incapacitation shall continue for more than six (6) months, or if such incapacitation is permanent, irreparable, or of such a nature as to make performance of Coach's duties impossible, then either party may terminate this Contract, whereupon the respective rights, duties and obligations of the parties hereunder shall cease and each party shall be released and discharged from this Contract without further liability to the other, with the exception of any liability which the University may have to Coach under the Nebraska Workers' Compensation Law, and with the exception of any benefits which Coach may be entitled to receive under any disability insurance coverage provided in whole or in part by the University.

Section 16. Prior Contracts. This Contract constitutes the entire agreement between the parties with respect to all subject matter and supersedes all prior negotiations and understandings, whether verbal or written, if any.

Section 17. Contract Amendments. This Contract may be amended at any time by a written instrument duly approved by the University and accepted by Coach, except that the foregoing shall not apply to increases in salary and/or improvements in fringe benefits which may be accomplished at any time by appropriate official action without the necessity for written modification or amendment to this Contract.

Section 18. Governing Law and Venue; Severability. The laws of the State of Nebraska shall govern the validity, performance and enforcement of this Contract. Any dispute arising hereunder shall be resolved in a court, administrative body, or other forum of competent

jurisdiction located in the State of Nebraska. If any portion of this Contract shall be declared invalid or unenforceable by a court of competent jurisdiction, such declaration shall not affect the validity or enforceability of the remaining provisions of this Contract.

Section 19. Captions. The captions of the various paragraphs of this Contract have been inserted for the purpose of convenience of reference only, and such captions are not a part of this Contract and shall not be deemed in any manner to modify, explain, enlarge or restrict any of the provisions of this Contract.

Section 20. Public Record. It is understood and agreed that this Contract shall be a public record as provided by the Nebraska public records statutes (*Neb. Rev. Stat.*, §§ 84-712 through 84-712.09, as amended), and shall be made available by the University to the public for examination as provided by said statutes.

IN WITNESS WHEREOF, the parties have executed this Contract as of the date indicated below.

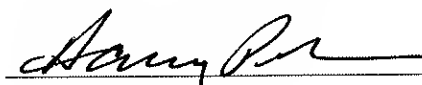
Approved by the Director of Intercollegiate Athletics, and executed by the Chancellor and Vice Chancellor for Business and Finance of the University of Nebraska-Lincoln, as the duly authorized representatives of the Board of Regents of the University.

APPROVED:

**THE BOARD OF REGENTS OF THE
UNIVERSITY OF NEBRASKA**

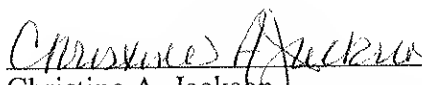


Tom Osborne
Director of Intercollegiate Athletics



Harvey S. Perlman
Chancellor

6/3/12
Date



Christine A. Jackson
Vice Chancellor for Business and Finance

Accepted by Coach this 3rd day of June, 2012



Darin Erstad
Head Baseball Coach

athErstadcontract2012

APPENDIX "A"
University of Nebraska–Lincoln Department of Athletics
Policy on HuskerVision Television Productions

HuskerVision, a division of the Department of Athletics, produces a number of programs, including coaches' shows featuring commentary and game highlights, which are licensed to distributors of television programming. These programs are intended to inform the public about and generally promote the intercollegiate athletic programs at the University of Nebraska–Lincoln. The purpose of this policy is to clarify the relationship between HuskerVision/the Athletics Department and its employees with regard to this television programming.

(1) The Athletics Department, in conjunction with its HuskerVision unit, will provide all resources necessary to produce the television programs described in this policy. More specifically, the Department will provide (A) the studio, the camera personnel, directors, editors and all technical personnel, and all the equipment required to produce and record the show, (B) creative consultants, (C) personnel responsible for licensing the distribution of the shows, (D) the announcer talent appearing on the shows, and (E) the University of Nebraska trademarks associated with the Athletics Department. All of this support is provided through the application and expenditure of university resources.

(2) HuskerVision staff and Coaches shall cooperate and mutually agree upon a taping and production schedule as needed to meet the needs of the distribution of the production. Coaches will also make a reasonable number of appearances in recorded and/or live promotions made on behalf of the University of Nebraska–Lincoln and their HuskerVision show. Such participation in the productions is considered part of the Coaches' regular employment duties for which they are compensated pursuant to their contract or letter of appointment. The coaches shall permit the use of their name and image, or other similar identifiers personal to the coach, on the shows and in relation to any Athletics Department promotion of the HuskerVision shows.

(3) The resulting productions and revenue, if any, shall be the property of the University, along with all rights that accompany the ownership of such copyright protected property. The University employees' contributions to the television productions shall be considered "works-for-hire". The Athletics Department may subsequently market the HuskerVision shows, or edited versions thereof, to secondary markets through the distribution of video tapes, CDS, DVDs, over the Internet, or any other means of recording and distribution. In addition, the shows may be edited to meet the needs of the University, including the distribution of segments of the shows used for viewing at athletic events, for development and promotion of the Department or the University.

APPENDIX "B"
Exceptional Performance Bonus

Coach shall be paid the following amounts under the circumstances described below:

I. In the event that Coach appears as Head Coach for the Program and achieves any of the following team achievements, Coach shall be paid the amount indicated.

- (a) One-twelfth (1/12) of then current annual salary as provided in Section 3 of this Contract in the event the team accomplishes a Big Ten Conference² Championship *or* an NCAA Tournament Appearance; or
- (h) One-eighth (1/8) of then current annual salary as provided in Section 3 of this Contract in the event the team accomplishes a Big Ten Conference Championship *and* an NCAA Tournament Appearance; or
- (c) One-sixth (1/6) of then current annual salary as provided in Section 3 of this Contract in the event the team accomplishes a College World Series Appearance; or
- (d) One-fourth (1/4) of then current annual salary as provided in Section 3 of this Contract in the event the team wins the College World Series Championship Tournament.

² Note that the "Big Ten Conference" also refers to any successor intercollegiate athletic conference in which the Program competes.

APPENDIX "C"
UNIVERSITY OF NEBRASKA-LINCOLN
DEPARTMENT OF INTERCOLLEGIATE ATHLETICS POLICY ON
STANDARDS OF PROFESSIONAL PERFORMANCE FOR ATHLETIC STAFF
AND RULES OF PROCEDURE FOR DISCIPLINARY ACTIONS

Pursuant to Section 4.7.1 of the *Bylaws of the Board of Regents of the University of Nebraska*, the following departmental policy entitled "Standards of Professional Performance for Athletic Staff and Rules of Procedure for Disciplinary Actions" has been approved by the Chancellor.

Section 1. Definitions. Unless the context otherwise requires, the definitions given in this section shall apply when any one of the defined terms appears in this departmental policy.

- (a) "Athletic Director" shall mean the Director of Intercollegiate Athletics of the University of Nebraska-Lincoln.
- (b) "Conference" shall mean the Big Ten Conference, or any successor athletic conference to which the University belongs.
- (c) "Department" shall mean the Department of Intercollegiate Athletics of the University of Nebraska-Lincoln.
- (d) "Governing athletic rules" shall mean any and all present or future legislation, rules, regulations, directives, written policies, bylaws and constitutions, and official or authoritative interpretations thereof, and any and all amendments, supplements, or modifications thereto promulgated hereafter by the NCAA or the Conference, or any successor of such association or conference, or by any other athletic conference or governing body hereafter having regulatory power and authority relating to any intercollegiate athletics program of the University or to any intercollegiate athletics program of any institution of postsecondary education previously employing a senior athletic staff member.
- (e) "NCAA" shall mean the National Collegiate Athletic Association.
- (f) "Athletic staff member" shall mean any employee of the Department who is employed by special appointment pursuant to Section 4.4.1 of the *Bylaws of the Board of Regents of the University of Nebraska* and who is classified as a member of the professional staff of the University.
- (g) "University" shall mean the University of Nebraska-Lincoln.

Section 2. Standards of Professional Performance.

(a) Athletic staff members shall perform their duties and personally comport themselves at all times in a manner consistent with good sportsmanship and with the high moral, ethical and academic standards of the University. Each senior athletic staff member shall at all times exercise due care that all personnel and students under their supervision or subject to their control or authority shall comport themselves in like manner.

(b) Athletic staff members shall observe and respect the principles of institutional control of the University's Intercollegiate Athletics Program.

(c) Athletic staff members will at all times comply with the law, applicable University regulations, and governing athletic rules. Athletic staff members have an obligation to personally comply with and to exercise due care that all personnel and students subject to their direct control or authority comply with governing athletic rules relating to recruiting and furnishing of unauthorized extra benefits to recruits and to student-athletes.

(d) Athletic staff members are expected to recognize that the primary mission of the University is to serve as an institution of postsecondary education, and each athletic staff member shall be expected to fully cooperate with the faculty and administrators of the University in connection with the academic pursuits of student-athletes and to use their best personal efforts to encourage and promote those pursuits.

Section 3. Disciplinary Action Less Severe Than Suspension or Termination. The University shall have the right to take disciplinary or corrective action against any athletic staff member, short of suspension or termination of employment for cause, for any reason which would allow termination for cause under the provisions of Section 4 of this departmental policy. Such disciplinary action may include, but is not limited to, reprimand or probation, and shall not affect the University's right to initiate more severe disciplinary action under Section 4 of this departmental policy. In addition, any athletic staff member shall be subject to disciplinary or corrective action by the NCAA or the Conference for any violation of NCAA or Conference governing athletic rules, respectively. Such action by the NCAA or the Conference shall not preclude or in any manner affect the University's right to take disciplinary action pursuant to this Section 3 or pursuant to Section 4 of this departmental policy.

Section 4. Termination or Suspension for Cause.

(a) The University may terminate or suspend the employment of an athletic staff member for adequate cause. For the purpose of this policy the terms "adequate cause" and "cause" shall be synonymous and shall mean any one or more of the following:

(1) Neglect or inattention to performance of duties of University employment, after reasonably specific written notice of such neglect or inattention has been given to the athletic staff member by the Chancellor, the Athletic Director or other authorized University administrator or supervisor, and the athletic staff member has continued such neglect or inattention during a subsequent period of not less than ninety (90) days; provided that in cases of egregious dereliction of duties or mismanagement, which in the reasonable judgment of the Chancellor, the Athletic Director or such other administrative officer designated by the Chancellor has a substantial, serious and grave impact on the operations of the Department or the University, such notice and opportunity to cure is not required; or

(2) Material, significant or repetitive violation or breach of any governing athletic rule, any University regulation, or any state or federal law or regulation; or

(3) Conviction for violation of a criminal law (excluding minor traffic or non-criminal offenses); or

- (4) Fraud or dishonesty in the performance of duties of University employment, including the theft or intentional destruction of property, including but not limited to files, data, playbooks and any electronically stored information belonging to the University; or
- (5) Fraud or dishonesty in the preparation, falsification, or alteration of (1) documents or records of the University, the NCAA, or the Conference, (2) documents or records required to be prepared or maintained by law, governing athletic rules, or University regulations, or (3) other documents or records pertaining to recruitment of any student-athlete, including, without limitation, expense reports, transcripts, eligibility forms, or compliance reports; or permitting, encouraging or condoning any such fraudulent or dishonest act by any other person; or
- (6) Failure to respond accurately and fully within a reasonable time to any reasonable request of inquiry relating to the performance of duties of University employment or relating to performance of duties of any prior employment at another institution of postsecondary education which shall be propounded by the University, the NCAA, the Conference, or other governing body having supervision over the intercollegiate athletics program of the University, or such other institution of postsecondary education; or which shall be required by law, governing athletic rules, or University regulations; or
- (7) Counseling or instructing any coach, student, or other person to fail to respond accurately and fully within a reasonable time to any reasonable request of inquiry concerning a matter relevant to any intercollegiate athletics program of the University or other institution of postsecondary education which shall be propounded by the University, the NCAA, the Conference, or other governing body having supervision over the intercollegiate athletics program of the University or such other institution of postsecondary education; or which shall be required by law, governing athletic rules, or University regulations; or
- (8) Soliciting, placing or accepting a bet on any intercollegiate athletic contest, or permitting, encouraging, or condoning any such act by any other person; or
- (9) Participating in, condoning or encouraging any illegal gambling, bookmaking, or illegal betting involving any intercollegiate athletic or professional athletic contest, whether through a bookmaker, a parlay card, a pool, or any other method of organized gambling; or
- (10) Furnishing of information or data relating in any manner to football, basketball or any other sport to any individual who the athletic staff member knows or reasonably should know is a gambler, bettor or bookmaker, or an agent of any such person; or
- (11) Use or consumption of alcoholic beverages in such degree as to significantly and materially impair the ability of the athletic staff member to perform his or her duties of University employment; or
- (12) Sale, use or possession of any narcotics, drugs, controlled substances, steroids or other chemicals, under circumstances where the sale, use or possession of any such item is prohibited by law or by any governing athletic rule; or

(13) Permitting, encouraging or condoning the sale, use or possession by any student of any narcotics, drugs, controlled substances, steroids or other chemicals, under circumstances where the sale, use or possession of any such item is prohibited by law or by any governing athletic rule; or

(14) Failure to fully cooperate in the enforcement and implementation of any drug testing program established by the University for student-athletes; or

(15) Subject to any right of administrative appeal within the NCAA or Conference, the making or rendition of a finding or determination by the NCAA, the Conference, or any commission, committee, council or tribunal of the same, (a) of one or more major, significant or repetitive violation of any governing athletic rule, or (b) of any such major, significant or repetitious violation by others which were permitted, encouraged or condoned by the athletic staff member, or about which violation the senior athletic staff member knew or reasonably should have known and failed to act reasonably to prevent, limit, or mitigate; or

(16) Failure to report promptly to the Athletic Director any known violation of any governing athletic rule or University regulation by an assistant coach, a student or other person under the direct control or supervision of the athletic staff member; or

(17) Failure to report accurately all sources and amounts of athletically related income as required by governing athletic rules.

(b) In lieu of termination of employment for cause, the University may suspend an athletic staff member (with or without pay) for a period not to exceed ninety (90) days for one or more of the acts or omissions representing grounds for termination of employment for cause under subsection (a) of this Section 4.

Section 5. Suspension for Criminal or Other Charges.

(a) As an alternative or supplement to any other remedies available to the University under this departmental policy, the University may suspend an athletic staff member on the following grounds:

(1) In the event of an indictment or information being filed against an athletic member charging a felony, or

(2) In the event of delivery of notice of formal inquiry or in the event of a preliminary finding by the NCAA, the Conference, or any commission, committee, council or tribunal of the same, alleging or finding one or more major, significant, or repetitive violations by the athletic staff member personally of any governing athletic rule, or such violations by other persons which were permitted, encouraged or condoned by the athletic staff member, or about which the athletic staff member had actual or constructive knowledge and failed to act reasonably to prevent, limit or mitigate.

(b) Any suspension of an athletic staff member under this Section 5 may continue until final resolution of such matter or proceeding. During such suspension, the athletic staff member shall continue to receive his or her regular University salary and benefits.

(c) Suspension of an athletic staff member under this Section 5 shall not in any manner prevent or otherwise limit the right of the University to act against the senior athletic staff member pursuant to Sections 3 or 4 of this departmental policy.

Section 6. Pre-termination Hearing.

(a) Prior to the employment of an athletic staff member being terminated for cause under this departmental policy, and except in those extraordinary situations in which it is reasonably determined that a pre-termination hearing would be seriously detrimental to the interests of the University, an athletic staff member will be given written notice of the intent of the University to terminate his or her employment for cause at least seventy-two (72) hours before the intended termination of employment. The notice of intended termination of employment shall be signed by the Athletic Director or other administrative officer as may be designated by the Chancellor, and shall set forth the reasons for termination of employment and a short explanation of the evidence which supports the intended termination of employment. Upon request, the athletic staff member shall have the right, prior to the intended termination of employment, to present a statement, either oral or written, to the Athletic Director, or such other administrative officer designated by the Chancellor, setting forth the reasons why he or she believes his or her employment should not be terminated.

(b) In those extraordinary situations where a pre-termination hearing is not possible, the Athletic Director, or such other administrative officer designated by the Chancellor, shall provide to the athletic staff member with written notice of termination of his or her employment and a short written explanation of the evidence which supports the termination decision. Such notice shall be given to the athletic staff member as soon as possible and in no case more than forty-eight (48) hours after the time of termination of employment.

(c) The procedure described above in subsections (a) and (b) of this Section 6 shall also apply in the event of suspension of any senior athletic staff member from employment for cause.

Section 7. Post-termination Hearing.

(a) If the employment of an athletic staff member is terminated for cause under this departmental policy, the athletic staff member upon written request delivered to the Athletic Director shall have the right to a post-termination hearing within a reasonable time after termination of his or her employment.

(b) The post-termination hearing will be conducted by a panel of three academic-administrative employees of the University selected by the Chancellor. Such hearing will be reported by a qualified court reporter, and a transcript of such hearing shall be prepared, all at the expense of the University. The athletic staff member shall at his or her option have the right to have a personal attorney present at such hearing, to call witnesses on his or her behalf, and to cross-examine witnesses. The formal rules of evidence applicable in the courts of the State of Nebraska shall not be applicable in any such hearing, however, the hearing panel shall only give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. The hearing panel may exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.

(c) After the conclusion of the hearing, the hearing panel shall promptly make a written recommendation for decision of the case to the Chancellor and provide a copy of such written

recommendation to the athletic staff member. As soon thereafter as possible, the Chancellor, or his or her designated representative, shall inform the athletic staff member of the decision of the Chancellor relating to termination of the athletic staff member's employment. The decision of the Chancellor shall be final and there may be no further administrative appeal of such decision within the University of Nebraska.

(d) The procedure described in subsections (a), (b) and (c) of this Section 7 shall also apply in the event of suspension of any athletic staff member from employment for cause.

Section 8. Termination Without Cause.

The employment of any athletic staff member may be terminated at any time without cause by the University giving the athletic staff member advance notice as required by Section 4.4.1 of the *Bylaws of the Board of Regents of the University of Nebraska*.